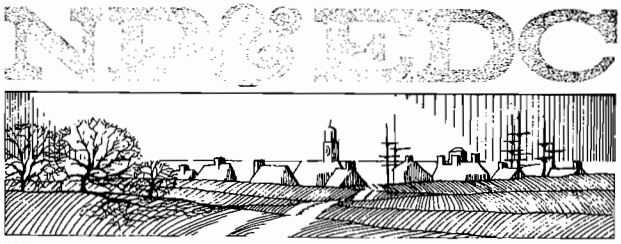

NANTUCKET PLANNING AND ECONOMIC DEVELOPMENT COMMISSION

July 26, 2006

Minerals Management Service
381 Elden Street
MS 4042
Herndon, VA 20164

Re: Comments on the Notice of Intent to Prepare an EIS on the Cape Wind Project

Dear Sir or Madam:

The Nantucket Planning and Economic Development Commission ("NP&EDC") welcomes the opportunity to present its comments to the Minerals Management Service ("MMS") regarding the preparation of an environmental impact statement ("EIS") for the proposed Cape Wind project. The primary role of the NPEDC is to plan for the economic, social and physical development of Nantucket. Energy, the environment and preservation of Nantucket's unique historic characteristics figure prominently in our island economy. We have therefore served as a cooperating agency with the Army Corps of Engineers in its preparation of the Draft EIS, and have been an active participant in the overall review and permitting process for the Cape Wind Project.

To facilitate our ongoing involvement in the review process, we have both dedicated staff resources and engaged a consultant specializing in the electric industry and wind energy in order to provide constructive comments. Those comments have been provided to date in three primary forms:

- December 8, 2004 Public Hearing Comments provided to the Army Corps of Engineers in the public hearing held on Nantucket
- February 18, 2005 Comments to the Army Corps of Engineers and the Massachusetts Environmental Policy Act Office on the Draft EIS
- February 28, 2006 Comments to the MMS on Development of a Regulatory Program for Offshore Alternative Energy Projects.

In light of the prior input we have provided, we believe the most productive use of this letter is to summarize those comments and the key issues that we hope your agency will address in the process that precedes development of the EIS. It is worthy to note that our comments strongly endorse a regional approach to selecting appropriate sites that would ultimately pave the way for a more effective site-specific EIS process.

<u>Draft EIS</u>
On the prior Draft EIS, we reached the following conclusions and urged the Army Corps to address these shortcomings:

1. **The Draft EIS is incomplete, its alternative criteria are improperly specified, and is insufficient to permit the Project as proposed.**
    a. It is imprudent for the Corps to apply a much larger scale threshold to a first of its kind application in U.S. waters when other countries with far greater experience are ramping up with demonstration, pilot, or scalable option approaches.

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b. The Corps' site screening criteria were far too limiting based on existing or proposed benchmarks from its own survey, unduly restricting consideration of viable alternative sites.
c. The alternative visualizations contained in the DEIS do not contain a detailed image of the Electric Service Platform and Helipad, which are sizeable components of the facility.
d. The DEIS findings that the Cape Wind Project will allow the Cape and the Islands, and Massachusetts, to become more energy self-sufficient or obtain lower electric rates are unsubstantiated.
e. The DEIS fails to adequately address the impacts of this project on Nantucket, a National Historic Landmark.
f. The Corps has not adequately addressed the economic impacts of the proposed project on the region's tourist economy.
g. The size and scale of the Project in its proposed location exceeds documented experience and casts doubt on the reliability of estimated impacts on affected species.
h. Some sources have suggested that the Project may pose a danger to air and marine navigation, and also to ground-based radar navigation facilities, including defense facilities.
i. The Project should be more carefully analyzed for light pollution impacts and means for mitigation.

2. **If the flaws in the Draft EIS are satisfactorily addressed, the Project should only be permitted in phases with adequate monitoring and permit compliance measures.**
   a. Due to its unprecedented size and scope, and the inevitable uncertainties concerning its impacts, the project should be phased with strong consideration of a pilot project.
   b. Adequate measures should be taken to ensure compliance with permit conditions, including a decommissioning guarantee.
   c. Documented results regarding the reliability of currently operating wind farms, as well as their overall reduction in energy utilization from conventional power plants should be provided and considered in the review process.

<u>MMS Regulatory Process</u>

Recognizing the MMS is revisiting the broader issues of siting offshore alternative energy projects, we were pleased to provide our comments on appropriate steps in the regulatory process in our February 28, 2006 letter to the MMS. Among the important recommendations we provided, are:

- A "one stop shop" approach to licensing offshore wind farms should be adopted as an effective means to streamline regulation and reduce costs.
- MMS should identify suitable areas for offshore wind development and utilize them as a basis for comparison for future development sites.
- A clear set of standards for developers regarding public consultation and environmental impact studies should be established using current European guidelines as a model:
  - The process involves a two-step evaluation of the appropriateness of offshore sites for potential alternative energy projects. In the first stage, the Strategic Environmental Assessment (SEA) is a governmental agency review of potential sites and the environmental issues that should be addressed by developers. This phase should be designed, as in the EU, to solicit the inputs of all primary stakeholders, including project developers, to reveal multi-use conflicts, issues of controversy, and serve as a basis for selecting the best sites while minimizing conflict with existing uses or areas of environmental sensitivity.
  - In adopting the two-stage process, the first stage scoping review should identify multi-use conflicts. Areas with significant competing uses should not pass the first level scoping process, and therefore avoid lengthy and controversial second stage permitting.
- Once potential development areas have been approved in a first stage MMS screening process, as suggested above, these sites should be made available for further commercial assessment, either on a competitive basis or MMS would instruct NOAA to collect the necessary meteorological data, with prospective developers sharing the cost of the data collection in advance of the actual lease process.
- In order to estimate a "fair return" in exchange for competing public uses (e.g., recreation, fishing or tourism) the MMS should require an estimate of the forgone value from the excluded uses.

- A geographic area of interest should be defined in terms of natural marine or land boundaries, existing use characteristics, and physical properties suggesting feasibility for offshore energy project development. It has been recommended, for example, that the "Nantucket Shelf" area incorporating Vineyard Sound, Nantucket Sound, Nantucket Shoals, the continental shelf south of Martha's Vineyard, the great South Channel and Georges Bank be considered as one region for ocean management purposes. Within these larger regions of interest, sub-regions of interest (e.g., Nantucket Sound) should be evaluated through the first stage screening process prior to any permitting or leasing process.
- The MMS in its initial screening process should avail itself of currently available information on current uses. Such uses should consider:
    - Marine and air navigation corridors
    - Commercial and recreational fishing activity
    - Recreational boating activity
    - Existing waterfront development within the potential viewshed
    - Role of tourism in the local economy
    - Cultural and historic resources.
- In the process of the stage one screening, the MMS should rank areas for potential offshore development according to the potential conflict with existing uses. Such ranking should also consider the energy potential of each area. Mitigating measures may be developed in terms of the size or exact location of potential development. Offsetting benefits for impacted parties may be explored, including sharing of lease and royalty revenues, or offtake contracts for power at reduced rates. Absent agreement from local authorities and key stakeholders, we believe it is counterproductive to bring these conflicted areas to the second stage for permitting.
- As a practical matter, where significant conflict exists for a potential site location, it will be difficult to accurately calibrate the public cost/benefit. Such areas might feasibly be permitted through a negotiated settlement of the key stakeholders, with MMS acting as intermediary. It is clearly in the public interest, however, to site these projects in areas where such conflicts are minimized.
- Upon satisfying a first stage screen for major conflicts, environmental sensitivities and sufficient commercial feasibility to proceed with a leasing program, the MMS should open areas to competitive bidding. Successful bidders would be required to prepare a complete Environmental Impact Statement addressing the issues not sufficiently addressed in the initial MMS site screening stage. Factors considered in approving projects should include:
    - Track record and experience of the project developer
    - Scope of the project in relation to international norms and US experience
    - Degree of conflicting uses
    - Degree and basis for local opposition
    - Commercial viability
    - Non-mitigable environmental risks
    - Bond surety for decommissioning.
- Pilot projects and prototypes, both government-sponsored and commercial, should be encouraged as a means to ease public concern and reduce uncertainty. In fact, we strongly urged the Army Corps of Engineers in our comments on the Cape Wind DEIS to adopt just such a strategy once addressing the issues identified in the DEIS.
- It is important for the MMS to ensure that after the end of commercial operations the seabed is returned, to the maximum degree practical, to its original condition so as to restore the original viewscape and allow restoration of other uses (e.g., commercial fishing). This should entail:
    - Removal of both above-sea and sub-sea structures that project above the seafloor
    - Inspection of such removal by the MMS to ensure compliance.

  There are at least two options that would ensure these requirements:
    - Funding of a trust (comparable to a nuclear decommissioning trust) sufficient to meet the permit obligations.
    - Surety Bond issued by an underwriter on behalf of the project developer, guaranteeing that the project developer will fulfill its permit obligations. In the event that the obligations are not met, the MMS would fulfill those obligations and recover its losses via the bond.

- To ensure the maximum benefit to both humans and the marine environment, the MMS should outline a clear and comprehensive monitoring program for offshore wind facilities. The program should achieve several goals: safety to humans for both recreational and commercial uses of marine systems, efficient operation of the facilities and use of the resource, benign impact on the marine ecosystem, and assurance that the project is operating under the specifications designated in the permitting process.
- The payment structure from any permitted project should be designed to capture the fair market value of the proposed site in a competitive solicitation. As described above, we do not believe as a practical matter that it will be possible to adequately quantify opportunity costs for displaced activities and related ancillary impacts. These are threshold questions that should, instead, be factored into the initial site selection process. In certain instances, displaced stakeholders may wish to bid on proposed sites in order to preserve existing use. We believe this is an appropriate market-based mechanism and should be allowed, although it is unlikely that such bids will reflect the full value of all such displacement or opportunity costs.
- The MMS should recognize the local impacts of projects in terms of revenue sharing from permitted projects. An appropriate allocation should be determined between federal, state and local jurisdictions abutting waters where projects are sited. We initially recommend an allocation of 50/15/35, respectively, for these purposes.
- We urge to MMS to follow the advice of the oceans use commissions, and establish regional ocean councils to assist with implementation of this program. The model of the Regional Fishery Management Councils serves as a useful template, where federal, state, local and industry stakeholders work to establish regional management policies. Each regional council, in this case, would be charged with developing recommendations for areas suitable for offshore energy project development and assist with the development of subsequent leasing programs.
- Consistent with the above recommendations, we urge the MMS to establish regional councils to first advise the MMS on which areas are most suitable for development and avoid substantial conflicts with existing uses. Once these areas are identified (consistent with the European stage one screening recommended earlier in these comments), they should be put out for public comment. The benefit of the regional process, in advance, is that public input should be anticipated in advance and already factored into the initial recommendations.

<u>Referendum on Wind Power at the Proposed Site</u>

We also wish to share with the MMS the results of a non-binding referendum placed on the ballot in this Spring's general election The referendum was placed on the ballot so policymakers on the Island would be better positioned to understand the public views on the proposed project. As we are sure you are aware, the project has been a source of considerable attention and public debate. Advocacy groups on both sides of the issue ensured that residents were fully aware of their positions and the basis for those positions. On that basis, we deemed the results to be more than a "knee jerk" reaction to the issue. The results are tabulated below:

Non- Binding Question: Wind Power

"Shall the Town of Nantucket support the generation of electricity by wind power as proposed for a site in Nantucket Sound?"

Results:

Yes	1,096	32%
No	2,261	66%
Blank	52	2%

Compared with our experience with other referenda, we find this to be a clear statement of concern, if not outright opposition, to the project as proposed. There are many issues, no doubt, that factor into this public opinion. Among them, we believe, are:

- Concern for the preservation of the Island's historic character which also serves as a basis for our tourist based economy
- Lack of any clear local benefits from the siting of the project

- Discomfort with the size and scale of the project with no benchmarks for comparison
- Uncertain impacts on marine and mammal life
- Impacts on marine and air navigation that serve as the lifeblood of the Island
- Visual and aesthetic impacts associated with 130 turbines and the transformer/helipad
- Loss or restricted use for significant portions of the Sound for recreational and commercial activity.

On behalf of the NP&EDC, we appreciate this opportunity to comment on these important issues. If you have any questions on our comments, or would find additional dialogue of benefit, we would be pleased to discuss with the MMS staff.

Sincerely,

Barry G. Rector, Chairman
Nantucket Planning & Economic Development Commission

CC:
Senator Edward Kennedy
Senator John Kerry
Congressman Bill Delahunt
Governor Mitt Romney
Massachusetts Attorney General Thomas Reilly
Massachusetts Secretary of Environmental Affairs
State Senator Robert O'Leary
State Representative Eric Turkington
Cape Cod Commission
Barnstable County Commission
Martha's Vineyard Commission
Cape Wind Associates